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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/593,573	06/14/2000	Olivier Casile	YOR9-1999-0577-US1	7644

7590 06/19/2006

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EXAMINER

SHANG, ANNAN Q

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 06/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action **Before the Filing of an Appeal Brief**

Application No.

09/593,573

Examiner

Annan Q. Shang

Applicant(s)

CASILE ET AL.

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 April 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).
Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1-24 and 26-30.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s) _____.
13. ☒ Other: See Continuation Sheet.


CHRIS KELLEY

SUPERVISORY PATENT EXAMINER

TECHNOLOGY CENTER 2600
Part of Paper No. 20060612

Continuation of 13. Other: Claims 1-2, 12-13, 16-17 and 19 stand rejected under 102(e) as anticipated by Yeo et al (6,870,573); claims 24 and 26-30 stand rejected under 102(e) as anticipated by Inoue (6,496,896); and claims 4-8, 10, 14-15, 18 and 20-23 stand rejected under 103(a) as being unpatentable over Yeo in view of Inoue.

With respect to claims 1-2, 12-13, 16-17 and 19, applicant discusses the disclosure of Yeo and argues that "Yeo is not creating a schedule for delivery of secondary content in a predetermined relationship to non-cyclic broadcasting of the primary content..."

In response, Examiner disagrees. Examiner notes applicant's arguments, however, Yeo discloses a computer system 130 or 230, which monitors multiple different available video channels from different video sources, a number of different program streams and repeatedly captures digital frames in real-time to form a visual summary and accesses the TV program schedule to create a schedule for delivery of the secondary data content in a predetermined relation to the non-cyclic broadcast of the primary content (col.3, line 51-col.4, line 15 and line 38-col.5, line 23). Yeo further teaches, that these process of monitoring and capturing of frames and repeatedly or cyclically delivering the captured secondary content, takes place at the transmitter or Server, where the captured frames or secondary content are transmitted, repeatedly or cyclically, in real-time with the video program and displayed with the video program (col.9, line 53-col.10, line 17). Hence applicant's arguments are not persuasive, the disclosure in Yeo meets all the claimed limitations, is proper and maintained.

With respect to claims 24 and 26-30 rejected under Inoue, applicant states that "the cite passages are not found in Yeo..."

In response, Examiner disagrees. Throughout the office action, Examiner discussed the Inoue reference and cited passages to meet all the claimed limitations. Hence, applicant's arguments are not persuasive, the rejection of claims 24 and 26-30 using Inoue is proper, meets all the claimed limitations and maintained.

With respect to claims 4-8, 10, 14-15, 18 and 20-23, applicant argues that, "Yeo does not teach or suggest the steps of..."

In response, Examiner maintains Yeo and Inoue references meets all the claimed limitations of the independent claims, and hence the 103(a) rejection of claims 4-8, 10, 14-15, 18 and 20-23 as unpatentable over Yeo in view of Inoue, meets all the claimed limitations, is proper and maintained.

Amendment claim 30 raises new issues which requires further search and consideration. Examiner, maintains the finality of the last office action is proper and maintained.